

MINUTES  
**WARRICK COUNTY AREA BOARD OF ZONING APPEALS**

Regular meeting held in the Commissioners Meeting Room,  
Third Floor, Historic Courthouse,  
Boonville, Indiana  
June 24, 2013 at 6:00 P.M.

**PLEDGE OF ALLEGIANCE:** A moment of silence was held followed by the Pledge of Allegiance.

**MEMBERS PRESENT:** Jeff Valiant, President; Judy Writsel, Jeff Willis, Terry Dayvolt, Tina Baxter, Don Mottley.

Also present were Morrie Doll, Attorney; Sherri Rector, Executive Director; Molly MacGregor, Staff.

**MEMBERS ABSENT:** Mike Winge.

**MINUTES:** Upon a motion made by Don Motley and seconded by Terry Dayvolt, the minutes of the last regular meeting held May 28, 2013 were approved as circulated.

**VARIANCES:**

**BZA-V-13-11**

**APPLICANT:** Hanks Neon and Plastic Services, Inc. by Wade Flake, Owner

**OWNER:** Hogan Real Estate LLC by Mike Leonard, C.O.O.

**PREMISES:** Property located on the S side of SR 66 approximately 340 ft E of the intersection formed by Old SR 261 and SR 66. Ohio Twp. Parcel no. 1 in Busler Minor subdivision. 7769 SR 66.

**NATURE OF CASE:** Applicant requests a Variance from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow an Improvement Location Permit to be issued for an electronic message board to be added to an existing on-premise pole sign not meeting minimum 5 Ft. setback yard requirement in "C-4" General Commercial Zoning District. *(As advertised in The Standard on May 16, 2013)*

Wade Flake with Hank Neon and Plastic Services and Melissa Kopshever, store manager at Walgreens, was present.

Mrs. Rector stated that Melissa Kopshever has Power of Attorney to represent Walgreens at this meeting.

The President called for a staff report.

Mrs. Rector stated they have all return receipts from the adjacent property owners except for receipts from Viran Shah Trust and Steven Wickiser. She added the certified letters were mailed on May 31<sup>st</sup>. Mrs. Rector stated the property is located on the S side of SR 66 approximately 340 ft E of the intersection formed by Old SR 261 and SR 66. Ohio Twp. Parcel no. 1 in Busler Minor subdivision. 7769 SR 66. Mrs. Rector stated the applicant requests a Variance from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow an Improvement Location Permit to be issued for an electronic message board to be added to an existing on- premise pole sign not meeting minimum 5 Ft. setback yard requirement in "C-4" General Commercial Zoning District. (*As advertised in The Standard on May 16, 2013*) Mrs. Rector said the existing zoning and land use is "C-4" General Commercial with a pharmacy. She added the surrounding zoning and land use is the property located to the North is zoned "C-3" Highway Commercial with commercial buildings, property to the West and South is zoned "C-4" General Commercial with commercial buildings, and property to the East is zoned "R-2" Multiple-Family District with multiple family dwellings. She said the property is not located in a flood zone and the entrance is off of SR 66 and Old SR 261. Mrs. Rector also stated that the pole sign and message board received a permit before Special Uses were required. She said the State bought additional right of way which left the existing sign not meeting the 5 Ft. setback yard requirements. Mrs. Rector said the existing sign did not move, only the R-O-W making the sign now sitting on the property line. She said when Walgreens came in for a permit; they stated that the electronic message board (located within the existing sign) would be bigger in size than the existing one, so to bring it into compliance they filed for this Variance. Mrs. Rector stated the application is in order and that this was not self-created. She said it was created by the State taking additional right-of-way.

Wade Flake said the sign would only be about three inches bigger than the previous one.

Mrs. Rector stated the sign is directly on the property line along SR 66 and it is 9 feet off of the side property line. She said with the message board there are stipulations with that.

Judy Writsel asked since the application states it does not meet the minimum 5 ft setback, how far back is it.

Mrs. Rector stated it is right on the property line.

Judy Writsel asked if there was green space between the sign and the pavement.

Mrs. Rector said it does not have pavement right up to it.

Terry Dayvolt asked what part of the sign is on the property line.

Wade Flake stated one of the poles of the sign is on the property line.

Mrs. Rector said it is the poles that go from the ground straight up are what's on the property line. She said the poles are already there and the big sign on top is there. She said this Variance was just putting the message board in the middle.

Judy Writsel questioned if it was allowed to stay there because it was there prior to the taking of the right-of-way therefor it is grandfathered in.

Mrs. Rector said yes and because there was no approval for the message board that was there because it was not required at that time and now they want to expand it so they have to come into compliance.

Judy Writsel asked if it would be the same width just taller.

Wake Flake said you will not be able to tell the difference in size by looking at it.

Being no remonstrators present and no more questions by the Board the President called for a motion.

I, Don Motley, make a motion to approve the Variance Application based upon and including the following findings of fact:

1. The grant of the Variance will not be injurious to the public health, safety, morals, and general welfare of the Community. As such, it is further found that the granting of the Variance shall not be materially detrimental to the public welfare.
2. The use or value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. As such, it is further found that the granting of the Variance shall not result in substantial detriment to adjacent property or the surrounding neighborhood.
3. The need for the Variance arises from some condition peculiar to the property involved. The peculiar condition constituting a hardship is unique to the property involved or so limited to such a small number of properties that it constitutes a marked exception to the property in the neighborhood. Such condition is the State Highway purchasing property for SR 66 widening.
4. The strict application of the terms of the Warrick County Comprehensive Zoning Ordinance will constitute a practical difficulty, unusual and unnecessary hardship if applied to the property for which the Variance is sought.
5. The approval does not interfere substantially with the Warrick County Comprehensive Zoning Ordinance adopted pursuant to IC 36-7-4-500 et seq.
6. The granting of the Variance is necessary in order to preserve a substantial property right of the petitioner to use the property in a reasonable manner, and not merely to allow the petitioner some opportunity to use his property in a more profitable way or to sell it at a greater profit.

7. That the hardship to the applicant's use of the property was not self-created by any person having an interest in the property nor is the result of mere disregard for or ignorance of the provisions of the Warrick County Comprehensive Zoning Ordinance.
8. The approval of the requested Variance is the least modification of applicable regulations possible so that the substantial intent and purpose of those regulations contained in the Warrick County Comprehensive Zoning Ordinance shall be preserved.
9. This Variance shall expire six (6) months after this date, UNLESS a Permit based upon and incorporating this Variance is obtained within the aforesaid six (6) month period or unless the provision of the Variance are adhered to within the aforesaid six (6) month period. Upon advance written application for good cause, a renewal for an additional six (6) month period may be granted by the Secretary of the Area Plan Commission.
10. The Variance Application is subject to the terms contained therein and the plans on file subject to the following additional conditions:
  - a) Subject to an Improvement Location Permit being obtained.
  - b) Subject to a Building Permit being obtained.
  - c) Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
  - d) Subject to all utility easement and facilities in place.
  - e) Subject to the Variance not being altered to become any other use nor expanded than that which was approved by the Board of Zoning Appeals.
  - f) Subject to no use of the words, 'stop', 'danger', 'look', or any other word which would confuse traffic.
  - g) Subject to no revolving beams of light or strobe lights.

The motion was seconded by Tina Baxter and unanimously carried.

**ATTORNEY BUSINESS:** None

**EXECUTIVE DIRECTOR BUSINESS:** None

Being no other business the meeting adjourned at 6:15 p.m. Motion made by Don Motley, seconded by Judy Writsel and unanimously carried.

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Jeff Valiant, Chairman

ATTEST:

The undersigned Secretary of the Warrick County Board of Zoning Appeals does hereby certify the above and foregoing is a full and complete record of the Minutes of said Board at their monthly meeting held June 24, 2013.

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Sherri Rector, Executive Director